

**BEFORE THE DIRECTOR
DIVISION OF PUBLIC HEALTH
DEPARTMENT OF HEALTH AND HUMAN SERVICES
STATE OF NEBRASKA**

**In the Matter of the Petition for
Reinstatement of a License to Practice Medicine
and Surgery Following Revocation
of Keith P. Hughes, MD.**

**) Findings of Fact, Conclusions of Law
) and Order Reinstating License On
) Probation
)**

This matter comes before the Director for consideration in the Matter of the Petition for Reinstatement of License to Practice Medicine and Surgery Following Revocation of Keith P. Hughes, MD signed on the 16th day of August, 2008. The Director considered the Petition and all the attachments and the recommendation from the Board of Medicine and Surgery. Based on that review, the Director makes the following Findings of Fact, Conclusions of Law and Order

FINDINGS OF FACT

1. A Petition for Disciplinary Action was filed against Dr. Hughes' license to practice medicine and surgery on May 29, 2003, alleging that Dr. Hughes had a dependency on or an active addiction to controlled substances or narcotic drugs.
2. Dr. Hughes underwent inpatient chemical dependency treatment at Hazelden in Center City, Minnesota, and was discharged after successful completion of the program on March 16, 2003.
3. On September 17, 2003, the Chief Medical Officer signed a Findings of Fact Conclusions of Law and Order which found the allegations of the Petition for Disciplinary Action to be true and placed Dr. Hughes' license on probation for a period of four years.
4. On September 22, 2005, a Findings of Fact Conclusions of Law and Order was issued extending Dr. Hughes' current four year license probation to a five year probation, and assessed a \$2,000 civil penalty. The Order concluded that Dr. Hughes had violated the terms and conditions of his probation based on the following findings of fact:
 - a. On or about December 10, 2004, the Police Department was called to the residence after Dr. Hughes' four year old daughter could not wake him. Dr. Hughes was impaired from alcohol intoxication. Dr. Hughes was charged with misdemeanor child neglect, which was later dismissed.
 - b. On or about December 20, 2004, Dr. Hughes admitted to the credentialing monitor that he had consumed one-half of a half pint of vodka.
 - c. On or about February 11, 2005, Dr. Hughes was given a Urine Ethyl Glucuronide test to detect the consumption of alcohol within the previous three to four day period of time. The results indicated that Dr. Hughes had consumed alcohol sometime within the previous four days.
5. On May 15, 2006, a Findings of Fact Conclusions of Law and Order was issued revoking Dr. Hughes' license because Dr. Hughes tested positive for Darvocet in contravention to one of the conditions of his probation, since he did not have a valid prescription for this drug.
6. Dr. Hughes entered an inpatient treatment program at Hazelden for a second time in May 2006. He was discharged on or about June 10, 2006.
7. Dr. Hughes states that he relapsed after his treatment by taking Ativan over a two day period on July 22 and 23, 2006.

8. Dr. Hughes states that he has been sober since July 25, 2006.

9. Dr. Hughes has been in an aftercare treatment program with The Recovery Center in Lincoln, Nebraska since August 6, 2006. Dr. Hughes has been randomly screened by the Recovery Center since that time. All of the drug screens have been negative.

10. Curtis Bonebright, LADC, Director, The Recovery Center, stated that they are supportive of Dr. Hughes' return to medical practice. Mr. Bonebright recommends that if Dr. Hughes is allowed to return to work that he remain in a support group. He felt that involvement in something more than just AA or NA meetings would be very beneficial.

11. Dr. Hughes has been attending Alcoholics Anonymous meetings on a frequent basis since July, 2006. Dr. Hughes' current sponsor in Alcoholics Anonymous submitted an affidavit of recommendation in which he states that he is extremely pleased with Dr. Hughes' recovery in progress. He states that he would be comfortable being Dr. Hughes' patient and recommending him to others.

12. Dr. Hughes has been receiving treatment from Helen Montoya, PhD, Licensed Clinical Psychologist, since December, 2007. Dr. Montoya states in her affidavit of recommendation that, based upon her treatment of Dr. Hughes, "he is capable of practicing medicine. I also believe he has the psychological foundation necessary to maintain the highest chance of abstinence. Based upon my personal knowledge I would not hesitate to refer patients to him."

13. Dr. Hughes receives treatment from Paul Gobbo, MD as his primary care physician. Dr. Gobbo told the Department Investigator that he prescribes Ultram to Dr. Hughes to be taken on an 'as needed' basis to treat chronic back pain. Dr. Gobbo states in his affidavit of recommendation that he believes Dr. Hughes is capable of practicing medicine and that he has taken the necessary steps to continue his successful abstinence.

14. Dr. Hughes has been working 40 hours per week selling flooring at Kelly's Carpet and Furniture since about mid-2007. His employer told the Department Investigator that she has had no concerns about his work habits and is supportive of his efforts to return to the practice of medicine and surgery.

15. In addition to the above-noted affidavits of recommendation, Dr. Hughes submitted affidavits of recommendation from his minister, banker, a former patient/personal accountant and three physicians who are acquainted with him. All of these individuals highly recommend Dr. Hughes to return to the practice of medicine and surgery.

CONCLUSIONS OF LAW

The Director has jurisdiction over this matter pursuant to Neb. Rev. Stat. 71-161.04. The Petitioner has met the procedural requirements for consideration of reinstatement. This matter is properly before the Director for consideration on the merits of the Petition for Reinstatement of License to Practice Medicine and Surgery Following Revocation.

RECOMMENDATION

Accordingly, it is hereby ORDERED that the license of Keith P. Hughes, MD be reinstated on Probation for a period of five (5) years from the date of reinstatement of the license with the following terms and conditions:

1. Dr. Hughes shall abstain from the consumption of alcohol and shall not consume products or medications containing alcohol, to include but not be limited to mouthwash and over the counter medications, unless prescribed by a physician.

2. Dr. Hughes shall abstain from the personal use or possession of controlled substances, and all other prescription drugs or mood altering substances, unless prescribed by or administered to him by a licensed physician or authorized licensed practitioner for a diagnosed medical condition. Dr. Hughes shall assure that the licensed practitioner sends the Division of Public Health a letter reporting the medical reason for the use of any controlled substance or prescription drug included in any treatment.
3. Dr. Hughes shall submit to random body fluid alcohol and/or drug testing at his own expense and at such time and place as the Division of Public Health may direct.
4. Dr. Hughes shall report to the Department on a monthly basis any controlled substances and prescription drugs used by or administered to him.
5. Controlled substances shall not be maintained on the premises at any medical clinic where Dr. Hughes is engaged in the practice of medicine and surgery.
6. Dr. Hughes shall not order any controlled substances from drug wholesalers.
7. Dr. Hughes shall maintain a separate written log of controlled substance prescriptions sufficient to identify each prescription issued during the probationary period. The log must include the date, drug, quantity, patient, and prescription purpose for each controlled substance prescription issued by Dr. Hughes. The prescription log shall be provided to the Department upon request.
8. Dr. Hughes shall comply with all aftercare treatment recommendations of his chemical dependency treatment provider and aftercare treatment provider, including any recommendations for counseling and attendance at support group meetings.
9. Dr. Hughes shall attend a minimum of two (2) Alcoholics Anonymous or other chemical dependency support group meetings per week, unless more are recommended by his treatment provider. Dr. Hughes must submit an attendance record to the Division of Public Health on a quarterly basis.
10. Dr. Hughes shall maintain an Alcoholics Anonymous or other chemical dependency support group sponsor at all times.
11. Dr. Hughes shall advise all personal treating physicians and other treating practitioners, prior to treatment, of his prior chemical dependency diagnosis and of all medications he is taking at the time of treatment. Dr. Hughes shall authorize all treating physicians and other treating practitioners to inform the Division of Public Health of all conditions for which he is being treated, including any drugs or medications, prescribed or over-the-counter, included in any treatment.
12. Dr. Hughes shall provide notification of this disciplinary action to any employer(s) for whom he provides medical services, any facility where he practices medicine and surgery or has privileges to practice medicine and surgery, all practice partners or associates, and to any postgraduate medical educational program in which he may enroll. Written confirmation of this notification shall be provided to the Division of Public Health within thirty (30) days of the reinstatement of license and within thirty (30) days of any new employment, partners, facility privileges or postgraduate medical educational programs.
13. Dr. Hughes shall provide notification of this disciplinary action to the licensing authority in any state where he has or may obtain a license or permit to practice medicine and surgery. Written confirmation of this notification shall be provided to the Division of Public Health within thirty (30) days of the reinstatement of license and within thirty (30) days of licensure in another state.
14. Dr. Hughes shall provide written notification, within seven (7) days of its occurrence, of any change in residence, employment, address or phone number and its effective date.

15. Dr. Hughes shall provide all reports, notices, and other documentation as directed by the Division of Public Health. If the Division of Public Health provides any particular form of report, reports must be made on such form.

16. Dr. Hughes shall provide such random written authorizations requested by the Division of Public Health for all records, information and reports, including such forms of authorizations to permit the obtaining and use of records, information and reports by the Department and the Nebraska Attorney General in conformity with 42 CFR, Part 2.

17. Dr. Hughes shall promptly respond to all requests and inquiries by the Division of Public Health concerning compliance with the terms and conditions of probation.

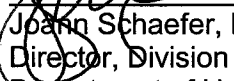
18. Dr. Hughes shall obey all state and federal laws and the rules and regulations regarding the practice of medicine and surgery. Any violations shall be reported to the Division of Public Health within seven (7) days.

19. Dr. Hughes shall pay any costs associated with insuring compliance with the probation, including for costs of the random body fluid screens.

20. Any period that Dr. Hughes may hold an inactive Nebraska license or is not practicing medicine and surgery shall not reduce the probationary period or satisfy the terms and conditions of probation.

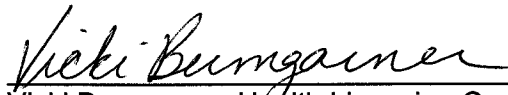
21. If Dr. Hughes practices or resides in a jurisdiction other than Nebraska, such practice or residency shall not serve to reduce or satisfy the probationary terms and conditions unless that jurisdiction adopts the probationary terms and conditions that are on his Nebraska license.

Dated this 21 day of November, 2008


Joann Schaefer, MD, Chief Medical Officer
Director, Division of Public Health
Department of Health and Human Services

CERTIFICATE OF SERVICE

COMES NOW the undersigned and certifies that on the 25th day of November, 2008, a copy of the foregoing FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER REINSTATING LICENSE ON PROBATION was sent by certified United States mail, postage prepaid, return receipt requested, to Keith P. Hughes, MD, 6709 Blue Ridge Lane, Lincoln, NE, 68516, and to Susan Ugai, Assistant Attorney General, 2115 State Capitol, by interagency mail.


Vicki Bumgarner, Health Licensing Coordinator
Licensure Unit
DHHS, Division of Public Health
State of Nebraska

CREDENTIALING DIVISION

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**FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER**

Defendant.

SUMMARY OF THE HEARING

FINDINGS OF FACT

1. A Petition for Disciplinary Action was filed against Dr. Hughes' license on May 29, 2003, alleging the he had a dependency on or an active addiction to controlled substances or narcotic drugs.
2. Dr. Hughes underwent inpatient chemical dependency treatment at Hazelden and was discharged after successful completion of the program on March 16, 2003.
3. On July 29, 2003, a hearing was held on the Petition for Disciplinary Action and on September 17, 2003, the Chief Medical Officer signed Findings of Fact Conclusions of Law and Order which found the allegations to be true and placed Dr. Hughes' license to practice medicine on probation for a period of four (4) years. A Nunc Pro Tunc order was entered by the Chief Medical Officer on October 7, 2003, amending the Findings of Fact Conclusions of Law and Order condition e.
4. On February 10, 2005, Dr. Hughes was found by his ex-wife asleep or passed out while he had been left caring for their four-year-old child. Law enforcement officers at the scene felt Dr. Hughes was impaired from alcohol intoxication.

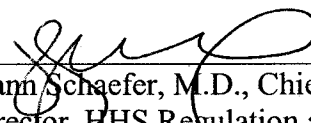
5. On February 11, 2005, Dr. Hughes tested positive for alcohol which was in violation of the terms and conditions of his probation.
6. On April 18, 2005, a Second Amended Petition to Revoke Probation was filed with the Department alleging that Dr. Hughes violated condition b of the September 17, 2003 probation order which provided that he abstain from the consumption of alcohol when he consumed alcohol in December of 2004.
7. On September 22, 2005, the Director entered a Findings of Fact Conclusions of Law and Order finding the allegations in the Second Amended Petition to Revoke Probation were true and extended Dr. Hughes' current four (4) year probation to a five (5) year probation under the same terms and conditions of the September 17, 2003 probation order with the addition that he shall comply with the treatment recommendations of the relapse prevention program. He was also ordered to pay a civil penalty of \$2,000.
8. Condition a of Dr. Hughes' probation states that he shall abstain from the personal use of controlled substances and all other prescription drugs, unless prescribed for or administered to Dr. Hughes by a licensed physician or authorized licensed practitioner for a diagnosed medical condition.
9. On November 23, 2005, Dr. Hughes submitted to a random drug screen which tested positive for norpropoxyphene (Darvocet) at 6312 ng/ml with a cut off level of 500 ng/ml.
10. Dr. Hughes did not have a valid prescription for Darvocet.
11. In the days before November 23, 2005, Dr. Hughes borrowed what he thought was 800 mg. of ibuprofen from his uncle, Patrick Hughes. Mr. Hughes had at that time a prescription for ibuprofen and for Darvocet 100 which he kept in the same container. In fact, what Dr. Hughes was apparently given to him by his uncle was Darvocet 100.
12. By ingesting a prescription drug without it having been prescribed for him, Dr. Hughes violated condition a. of the terms and conditions of his probation dated September 17, 2003, as continued and extended in an order dated September 22, 2005.

ORDER

1. The probation imposed on the license held by Dr. Hughes is revoked effective on the date of this order.
2. The license held by Dr. Hughes to practice medicine and surgery in the state of Nebraska is revoked effective on the date of this order.

DATED this 5 day of May 2006




Joann Schaefer, M.D., Chief Medical Officer
Director, HHS Regulation and Licensure

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE
STATE OF NEBRASKA

FILED

DEC 16 2005

**HHS REGULATION
AND LICENSURE**

STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General,

Plaintiff,

v.

KEITH P. HUGHES, M.D.,

Defendant.

**PETITION TO REVOKE
PROBATION**

CREDENTIALING DIVISION

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The Plaintiff alleges as follows:

1. A Petition for Disciplinary Action was filed against the Defendant's license on May 29, 2003, alleging the Defendant had a dependency on or an active addiction to controlled substances or narcotic drugs.
2. The Defendant underwent inpatient chemical dependency treatment at Hazeldon and was discharged after successful completion of the program on March 16, 2003.
3. On July 29, 2003, a hearing was held on the Petition for Disciplinary Action and on September 17, 2003, the Chief Medical Officer signed Findings of Fact Conclusions of Law and Order which found the allegations to be true and placed the Defendant's license to practice medicine on probation for a period of four (4) years. A Nunc Pro Tunc order was entered by the Chief Medical Officer on October 7, 2003, amending the Findings of Fact Conclusions of Law and Order condition e.
4. On April 18, 2005, a Second Amended Petition to Revoke Probation was filed with the Department alleging that the Defendant violated condition b of the September 17,

2003 probation order which provided that he abstain from the consumption of alcohol when he consumed alcohol in December of 2004.

5. On September 22, 2005, the Director entered a Findings of Fact Conclusions of Law and Order finding the allegations in the Second Amended Petition to Revoke Probation were true and extended the Defendant's current four (4) year probation to a five (5) year probation under the same terms and conditions of the September 17, 2003 probation order with the addition that he shall comply with the treatment recommendations of the relapse prevention program. The Defendant was also ordered to pay a civil penalty of \$2,000.

6. Condition a of the Defendant's probation states that he shall abstain from the personal use of controlled substances and all other prescription drugs, unless prescribed for or administered to Dr. Hughes by a licensed physician or authorized licensed practitioner for a diagnosed medical condition.

7. On November 23, 2005, the Defendant submitted to a random drug screen which tested positive for norpropoxyphene (Darvocet) at 6312 ng/ml with a cut off level of 500 ng/ml.

8. The Defendant did not have a valid prescription for Darvocet.

9. The Defendant admitted to the credentialing monitor that he does take his uncle's prescription drug for 800 mg Ibuprofen as well as Defendant's wife's prescription drug for 800 mg Ibuprofen for his own headaches. He also stated that it is possible his uncle gave him a Darvocet instead of the requested Ibuprofen which could explain the positive test.

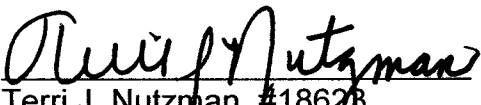
10. The Defendant has violated condition a of the September 17, 2003 and September 22, 2005 probation orders.

PRAYER

WHEREFORE, the Plaintiff requests that the Director set this Petition to Revoke Probation for hearing and enter an order for appropriate disciplinary action pursuant to Neb. Rev. Stat. Section 71-155, and tax the costs of this proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General,
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
Terri J. Nutzman, #18628
Assistant Attorney General
2115 State Capitol
Lincoln, Nebraska 68509
402-471-9658

ATTORNEYS FOR PLAINTIFF.

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE
STATE OF NEBRASKA

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STATE OF NEBRASKA ex rel.,
JON BRUNING, Attorney General,

Plaintiff,

v.

KEITH P. HUGHES, M.D.,

Defendant.

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FINDINGS OF FACT
CONCLUSIONS OF LAW
AND ORDER

A second amended petition to revoke probation was filed on April 18, 2005, alleging that Dr. Hughes had violated the terms and conditions of his probation on December 10, 2004, by consuming alcohol. A proposed agreed settlement was filed with the Director on April 18, 2005, and rejected in an order dated May 6, 2005. A hearing on the allegation was therefore held on September 1, 2005, before Hearing Officer Terry Schaaf. At that hearing, the State was represented by Assistant Attorney General Terri Nutzman and Dr. Hughes by Paula Lindsey Wilson.

SUMMARY OF THE HEARING

At the hearing, testimony was taken from Dr. Hughes and from Jane Haire, RN, the Administrator of the Nebraska Surgery Center. In addition to the testimony, twelve (12) exhibits were offered and received. At the hearing, Dr. Hughes admitted the allegations of the amended petition to revoke probation and provided an explanation for what had occurred on that occasion.

FINDINGS OF FACT

1. A Petition for Disciplinary Action was filed against the Defendant's license on May 29, 2003, alleging he had a dependency on or an active addiction to controlled substances or narcotic drugs.
2. The Defendant underwent inpatient chemical dependency treatment at Hazeldon and was discharged after successful completion of the program on March 16, 2003.
3. On July 29, 2003, a hearing was held on the Petition for Disciplinary Action and on September 17, 2003, the Chief Medical Officer signed Findings of Fact Conclusions of Law and Order which placed the Defendant's license to practice medicine on probation for a period of four (4) years.
4. Among the probation conditions imposed by the Order is condition b. which states that Dr. Hughes shall abstain from the consumption of alcohol.

5. On December 10, 2004, the Police Department was called to the residence of the Defendant by the Defendant's former wife after the four (4) year old daughter could not wake the Defendant. The Defendant was impaired from alcohol intoxication. The Defendant was charged with misdemeanor child neglect, which was later dismissed.

6. On December 20, 2004, the Defendant admitted to the credentialing monitor that he had consumed one-half of a half pint of vodka.

7. On February 11, 2005, the Defendant was given a Urine Ethyl Glucuronide test (EtG) to detect the consumption of alcohol within the previous three (3) to four (4) day period of time. The results of the test detected an alcohol level of 3.6 ug/ml with a detection cut off level of 0.5 ug/ml. indicating the Defendant had consumed alcohol sometime within the previous four days.

CONCLUSIONS OF LAW

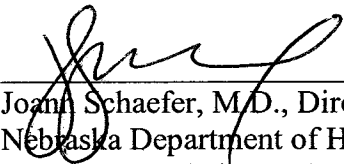
Violations of the terms and conditions of probation constitute grounds for additional sanction.

ORDER

1. Dr. Hughes' current four-year probation is extended to a five-year probation under the same terms and conditions as set out in the order entered September 17, 2003, with the addition that he shall comply with the treatment recommendations of the Licensed Professionals Chemical Dependency Post-treatment Aftercare Relapse Prevention Program.
2. Dr. Hughes shall pay a civil penalty in the amount of \$2000.00. The civil penalty shall be paid within six (6) months from the date of this order. In the event Dr. Hughes fails to pay the penalty by the stated deadline, the Director may summarily suspend his license to practice medicine. Said suspension would remain in effect until the civil penalty is paid in full. Send payment Attention: Carmen Bachle, HHS Regulation and Licensure, Credentialing Division, 301 Centennial Mall South, P.O. Box 94986, Lincoln, NE 68509.

DATED this 22 day of September 2005.




Joann Schaefer, M.D., Director
Nebraska Department of Health and Human
Services Regulation and Licensure

HHS REGULATION AND LICENSURE

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Defendant.

1. A Petition for Disciplinary Action was filed against the Defendant's license on May 29, 2003 alleging he had a dependency on or an active addiction to controlled substances or narcotic drugs.
2. The Defendant underwent inpatient chemical dependency treatment at Hazeldon and was discharged after successful completion of the program on March 16, 2003.
3. On July 29, 2003 a hearing was held on the Petition for Disciplinary Action and on September 17, 2003, the Chief Medical Officer signed Findings of Fact Conclusions of Law and Order which placed the Defendant's license to practice medicine on probation for a period of four (4) years. A Nunc Pro Tunc order was entered by the Chief Medical officer on October 7, 2003, amending the Findings of Fact Conclusions of Law and Order condition e.
4. Among the probation conditions imposed by the Order is condition b. which states that Dr. Hughes shall abstain from the consumption of alcohol.

5. On December 10, 2004, the Police Department was called to the residence of the Defendant because the Defendant's four (4) year old daughter could not wake the Defendant. The Defendant was impaired from alcohol intoxication. The Defendant was charged with misdemeanor child neglect which was later dismissed.

6. On December 20, 2004, the Defendant admitted to the credentialing monitor that he had consumed one-half of a half pint of vodka.

7. Defendant has returned to the Licensed Professional's Chemical Dependency Post Treatment Aftercare Relapse Program due to his consumption of alcohol.

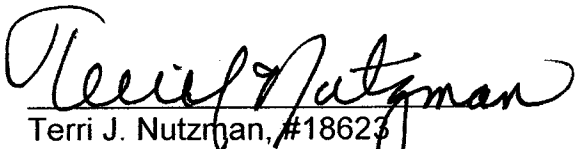
8. Defendant's consumption of alcohol is a violation of Condition b. of his probation.

PRAYER

WHEREFORE, the Plaintiff requests that the Chief Medical Officer set this Petition to Revoke Probation for hearing and enter an order for appropriate disciplinary action pursuant to Neb. Rev. Stat. Section 71-155, and tax the costs of this proceeding to the Defendant.

STATE OF NEBRASKA ex rel. JON
BRUNING, Attorney General
Plaintiff,

BY: JON BRUNING, #20351
Attorney General

BY: 
Terri J. Nutzman, #18623
Assistant Attorney General
2115 State Capitol
Lincoln, Nebraska 68509
402-471-9658

ATTORNEYS FOR PLAINTIFF.

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE
STATE OF NEBRASKA

STATE OF NEBRASKA, ex rel.,
JON BRUNING, Attorney General,

Plaintiff,

vs.

KEITH P. HUGHES, M.D.,

Defendant.

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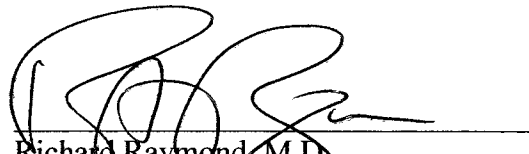
NUNC PRO TUNC ORDER

Paragraph "e." of the "Order" portion of the FINDINGS OF FACT, CONCLUSIONS OF LAW AND ORDER dated September 17, 2003, is amended to read as follows:

- e. Controlled substances shall not be maintained on the premises at any medical clinic where Dr. Hughes is engaged in the practice of medicine and surgery.

Dated this 7th day of October, 2003.




Richard Raymond, M.D.
Chief Medical Officer


CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the 7th day of October 2003, the forgoing NUNC PRO TUNC ORDER has been served upon defendant by mailing a copy thereof through United States mail, first class postage prepaid, addressed to defendant's attorney, Paula Wilson, 11620 Arbor Street, Suite 203, Omaha, Nebraska 68114 and by interoffice mail to James D. Smith, Assistant Attorney General, 2115 State Capitol Building, Lincoln, Nebraska.

RECEIVED
Credentialing Division

OCT 17 2003

Dept. Health & Human Services
Regulation & Licensure


Rosalyn K. Kirby
HHS Regulation and Licensure
P.O. Box 95007
Lincoln, NE 68509-5007
(402) 471-0384

**STATE OF NEBRASKA
THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE**

Credentialing Division

**STATE OF NEBRASKA ex rel.,
JON BRUNING, Attorney General,**

Plaintiff,

v.

KEITH P. HUGHES, M.D.

Defendant.

SEP 25 2003

69 - 30548 Health & Human Services
Regulation & Licensure

**FINDINGS OF FACT
CONCLUSIONS OF LAW AND ORDER**

A Petition for disciplinary action was filed against Dr. Hughes on May 29, 2003, alleging he had a dependency on or an active addition to controlled substances or narcotic drugs. After negotiations, a proposed Agreed Settlement was filed on May 29, 2003. That proposed Agreed Settlement was rejected by the Chief Medical Officer in an Order dated June 13, 2003 because in the Chief Medical Officer's opinion the record, then before him, did not contain sufficient facts on which to determine whether the sanction was adequate. Thereafter a hearing on the allegations was held before Hearing Officer Terry Schaaf on July 29, 2003.

SUMMARY OF THE HEARING

At that hearing the State was represented by Assistant Attorney General, James Smith and Dr. Hughes by Paula Wilson. At the hearing, testimony was taken from Department Investigator Larry Wiehn and from Dr. Hughes. In addition to the testimony, fourteen (14) Exhibits were offered and received.

FINDINGS OF FACT

1. Dr. Hughes has a dependence on or an active addition to controlled substances or narcotic drugs.
2. Dr. Hughes underwent inpatient chemical dependency treatment at Hazeldon and was discharged after successfully completing the program on March 16, 2003.
3. This record discloses that Dr. Hughes has a dependence on or an active addiction to controlled substances. There is no evidence he practiced while impaired and therefore he did not place patient safety and welfare in jeopardy.

CONCLUSIONS OF LAW

An active dependence on or addiction to controlled substances or narcotic drugs constitutes grounds for disciplinary action pursuant to Nebraska Revised Statute §71-147(3).

ORDER

The license held by Dr. Hughes to practice medicine and surgery in the State of Nebraska is hereby placed upon probation for a period of four (4) years from the date of this order subject to the following terms and conditions.

- a. Dr. Hughes shall abstain from the personal use of controlled substances and all other prescription drugs, unless prescribed for or administered to Dr. Hughes by a licensed physician or authorized licensed practitioner for a diagnosed medical condition.
- b. Dr. Hughes shall abstain from the consumption of alcohol.
- c. Dr. Hughes shall be subject to random body fluid or chemical testing at his expense at such time and place as the Department may direct. Dr. Hughes shall follow the instructions and directives of the Department for body fluid/chemical testing.
- d. Dr. Hughes shall maintain a separate written log of controlled substance prescriptions sufficient to identify each prescription issued during the probationary period by date, drug, quantity, patient, and prescription purpose. The prescription log shall be provided to the Department upon request.
- e. Controlled substances shall be maintained on the premises at any medical clinic where Dr. Hughes is engaged in the practice of medicine and surgery.
- f. Dr. Hughes shall not order any controlled substances from drug wholesalers.
- g. Dr. Hughes shall report the use of any controlled substances and prescription drugs to the Department on such frequency as is directed by the Department.
- h. Dr. Hughes shall comply with all aftercare treatment recommendations of his chemical dependency treatment provider, including any recommendations for counseling and attendance at support group meetings.
- i. Dr. Hughes shall attend a minimum of one (1) Alcoholics Anonymous or other chemical dependency support group meetings per week.
- j. Dr. Hughes shall advise all personal treating physicians and practitioners, prior to treatment, of his prior chemical dependency diagnosis and of all medications he is taking at the time of treatment. Dr. Hughes authorizes all treating physicians and other treating practitioners to inform the Department of all conditions for which he is treated, including any drugs or medications, prescribed or over-the-counter, included in any treatment.
- k. Dr. Hughes shall provide notification of this disciplinary action to all employers or practice partners, to all hospitals where he has staff privileges, and to the licensing authority in any states where he has or obtains an active medical license.

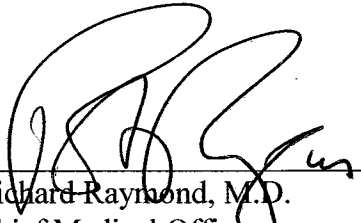
Such notification shall include providing copies of the Petition for Disciplinary Action or this Order on Findings of Fact Conclusion of Law entered by the Chief Medical Officer.

Written confirmation shall be provided by Dr. Hughes to the Department within thirty (30) days of the entry of the Order of Findings of Fact Conclusion of Law by the Medical Officer and within thirty (30) days of any changes in employment or subsequent out of state licensure.

- l. Any period Dr. Hughes may hold an inactive NE license shall not reduce the probationary periods or satisfy the terms and conditions of probation.
- m. Dr. Hughes shall submit written notification to the Department within seven (7) days of any change in employment, employment status, residence, or telephone.
- n. All reports, notices, and other documentation requested by the Department shall be provided using report forms provided by the Department.
- o. Dr. Hughes shall promptly respond to all requests and inquiries by the Department concerning his compliance with the terms of probation.
- p. Dr. Hughes shall pay the costs of this action and any costs associated with insuring compliance with this Order including, but not limited to, the costs of the random body fluid screening tests.
- q. Dr. Hughes shall provide such random written authorizations which are requested by the Department for all records, information, and reports, including such forms of authorization to permit the obtaining and use of records, information, and reports by the Department and by the Nebraska Attorney General in conformity with 42 C.F.R., Part 2.

DATED this 17th day of September, 2003.




Richard Raymond, M.D.
Chief Medical Officer

THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
REGULATION AND LICENSURE
STATE OF NEBRASKA

STATE OF NEBRASKA,

Plaintiff,

v.

KEITH PATRICK HUGHES, M.D.,

Defendant.

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PETITION FOR
DISCIPLINARY ACTION

RECEIVED
Credentialing Division

JUN 19 2003

The Plaintiff alleges as follows:

1. Jurisdiction is based on Neb. Rev. Stat. § 71-150.

Dept. Health & Human Services
Regulation & Licensure

2. At all times relevant herein, the Defendant Keith Patrick Hughes, M.D., has been the holder of a license (# 19819) issued by the Nebraska Department of Health and Human Services Regulation and Licensure ("Department") to practice medicine and surgery.

3. The Department is the agency of the State of Nebraska authorized to enforce the provisions of the Uniform Licensing Law regulating the practice of medicine and surgery.

4. The Nebraska Board of Medicine and Surgery has considered the investigation of this matter and made its recommendation to the Attorney General to file disciplinary proceedings against the Defendant's license to practice medicine and surgery.

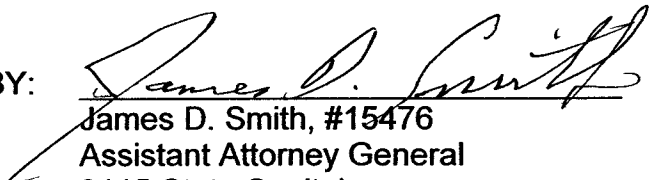
5. The Defendant has a dependence or an active addiction to controlled substances or narcotic drugs, which provides grounds for disciplinary action pursuant to Neb. Rev. Stat. § 71-147(3).

PRAYER FOR RELIEF

WHEREFORE, the Plaintiff prays that the Chief Medical Officer set this matter for hearing, order appropriate disciplinary action concerning the Defendant's license to practice medicine and surgery pursuant to Neb. Rev. Stat. § 71-155, and tax the costs of this action to the Defendant.

STATE OF NEBRASKA
Plaintiff,

BY: JON BRUNING
Attorney General

BY: 
James D. Smith, #15476
Assistant Attorney General
2115 State Capitol
Lincoln, NE 68509
(402) 471-2682

Attorneys for Plaintiff